

IRS News Release

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Treasury and IRS Issue Notice on Reporting and Withholding for Amounts Includible in Gross Income Under Code Section 409A

IR-2006-185, Nov. 30, 2006

WASHINGTON — Today Treasury and the IRS issued Notice 2006-100 providing guidance to employers and payers on their reporting and wage withholding requirements for calendar years 2005 and 2006 with respect to deferrals of compensation and amounts includible in gross income under IRC § 409A and relief from reporting deferrals that are not includible in income during those years. The notice supersedes Notice 2005-94.

Under the relief in the notice, employers and other payers need not report annual deferrals of compensation that are not includible in income under § 409A on Form W-2 or Form 1099-MISC for 2005 or 2006. However, amounts includible in income under § 409A for 2005 and 2006 must be reported on Form W-2 or Form 1099-MISC, as appropriate. Employers and payers were alerted last year in Notice 2005-94 that they might have to file amended information returns to report amounts includible in income for 2005. In addition, the notice provides guidance on how to meet income tax withholding requirements for amounts includible in income under § 409A for 2006. The notice also provides guidance to service providers on their income tax reporting and tax payment requirements for amounts includible in gross income under § 409A for 2005 and 2006.

The notice provides interim rules for 2005 and 2006 on calculating amounts includible in gross income under § 409A. These rules apply to service providers who must include amounts in income pursuant to § 409A and to employers or other payers who must report and withhold on the amount to be included in income under § 409A.